

I am writing to express my opposition to the Notice of Proposed Rulemaking #02-230. If adopted, this proposal would serve to retard or stifle future innovations in digital televisions and other electronic equipment designed to receive digital broadcasts. It would stultify the entire future of broadcasting, contrary to the public's best interest. The "broadcast flag" idea sprang from the Broadcast Protection Discussion Group, composed of industry special interests. It would be counter to the FCC's mandate if it were to sacrifice the public's best interests and their flexibility of choice in order to provide financial benefits to a special interest group -- which is exactly what the FCC would be doing if it approves this idea for codification into the regulations.

While piracy is a valid concern, it is not the only concern or even the major one. All fields of human production can be victimized by theft, but the solution is never to restrict public access. That amounts to stealing from the public as a remedy for theft by a minority. It is obviously preposterous and counter-productive to prevent the theft of an item by legislating or regulating its use out of existence. That places an actual (and undeserved) punishment on the innocent public, instead of finding a more just and appropriate way to punish the actual guilty parties.

The entertainment industry has no right to expect that its rights be protected at the expense of hurting the public's rights. But this is exactly what would be accomplished if the broadcast flag proposal is implemented.

The FCC is supposed to protect the public from special interests. It's job is not to provide insurance to special interests by infringing upon or reducing the public's right to access broadcast media.

The traditional entertainment industry is being faced with the challenge of the digital era. Whatever difficulties this may present to that industry, it does not give it the right to restrict consumers' ability purchase recording equipment and to use the equipment they have paid for and own.

The marketplace will surely find ways to resolve competing needs and goals in a more just and fair way than can be accomplished by tailoring regulatory law to the needs of one special interest group. The FCC should give the marketplace time to work -- particularly in a nascent industry like digital television. History proves that the marketplace repeatedly comes up with creative and just solutions to problems which had been regarded as insoluble.

The FCC has nothing to lose and everything to gain by -- at minimum -- postponing the implementation of this proposal. Give the marketplace a chance to work out a solution first. It may surprise everyone. If an acceptable and fair solution is not forthcoming, the FCC can always re-consider the current and/or other proposals. But if you act in haste now, you will forever foreclose the possibilities for other creative solutions to the problem and, indeed, deprive yourselves of the information and ideas that the marketplace may have to offer for your consideration.